

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARIA HERRERA,

Plaintiff,

v.

CIV-05-500 BRB/LAM

JOHN CASSAW and GRACE HOUSE, INC.,

Defendant.

PROPOSED FINDING AND RECOMMENDED DISPOSITION¹

THIS MATTER, is before the Court *sua sponte* following an October 4, 2005 Court order requiring Plaintiff to complete service of process on Defendant Grace House, Inc. no later than October 14, 2005. (*Doc. 8*) Plaintiff filed her complaint on May 4, 2005 (*Doc. 1*). During a September 30, 2005 telephonic hearing, the Court warned Plaintiff that the Court would recommend dismissal of Defendant Grace House, Inc. for lack of prosecution unless service was effected by October 14, 2005. (*Doc. 7*) To date, the record reflects that Plaintiff has not contacted the Court nor taken any further steps to prosecute this matter.

Having considered the record, the argument of counsel at the September 30, 2005 telephonic hearing, and the relevant law, the Court finds that Plaintiff has not served Grace House, Inc. within the time limit prescribed by Fed. R. Civ. P. 4(m) or by the additional deadline imposed by the Court. In light of this finding, the applicable law, and the Court's inherent power to regulate and properly

¹The parties are notified that within **ten (10) days** after being served with a copy of these Proposed Findings and Recommended Disposition they may file and serve **written objections** with the Clerk of the U.S. District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the U.S. District Court within the ten-day period allowed if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.

manage its docket, promote judicial efficiency, and deter frivolous filings, the Court hereby recommends dismissal of Defendant Grace House, Inc. without prejudice from this action pursuant to Fed. R. Civ. P. 41(b) for “failure of the plaintiff to prosecute or to comply with these rules or any order of the court.”

WHEREFORE, IT IS HEREBY RECOMMENDED THAT Defendant Grace House, Inc. be **DISMISSED** without prejudice from this action pursuant to Fed. R. Civ. P. Rule 41.

Lourdes A. Martinez

LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE